

**REMARKS**

Applicant thanks the Examiner for acknowledging Applicant's claim to foreign priority under 35 U.S.C. § 119(a)-(d), and for confirming that the certified copy of the priority document has been received at the Patent Office.

**Drawings:**

Applicant thanks the Examiner for indicating that the drawings filed with the present application have been approved.

**Information Disclosure Statement:**

Applicant thanks the Examiner for initialing and returning Form PTO/SB/08 A & B filed on June 7, 2004, thus indicating that all of the references listed thereon have been considered.

**Claim Objections:**

Claims 4 and 7 have been objected to by the Examiner. Applicant has amended each of these claims as shown in the previous section and hereby requests the Examiner reconsider and withdraw the above objection. As suggested, Applicant has amended these claims to depend on claim 2.

**Claim Rejections:**

Claims 1-14 are all of the claims pending in the present application, and currently all of the claims stand rejected.

***35 U.S.C. § 102(b) Rejection – Claims 1-14:***

Claims 1-14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,659,402 to Fujita et al. In view of the following discussion, Applicant respectfully traverses the above rejection.

As an initial matter, Applicant notes that the Examiner has withdraw the previous 35 U.S.C. § 103(a) rejection, and replaced it with the above 35 U.S.C. § 102(b) rejection, using the Fujita reference, alleging that Fujita discloses each and every feature of the claimed invention.

Applicant submits that the Examiner was correct in the Examiner's June 16, 2004 Office Action, in which the Examiner admitted that Fujita failed to disclose the claimed determining unit which figures out the "distribution of differences" of the present invention. *See* June 16, 2004 Office Action, page 5.

In any event, to make this aspect of the claimed invention more clear, Applicant has amended claims 1, 13 and 14, as shown in the previous section. Accordingly, Applicant submits that Fujita fails to disclose each and every aspect of the claimed invention.

In the claimed invention, a picture element characteristic determining unit is used to create or determine a distribution of differences of tone levels between object picture elements which are the picture elements of the image data acquired by the image acquisition unit and neighboring picture elements. *See* claim 1. Further, the distribution of differences is created or determined by placing each of the differences, respectively, in one of a plurality of predetermined categories, which creates the distribution. Non-limiting, exemplary embodiments of this can be seen it at least Figures 12C, 15C, 16C, 17C and 18C, of the present application.

These embodiments show a distribution of differences, from the other respective Figures (i.e. 12A, 12B, etc.), where various difference values have been placed in predetermined categories. For example, with regard to Figure 12B, the differences of "9," "2," "6," "9", "9", "5," and "6" are placed in the same category, i.e., between the range of "0" and "10," as shown in Figure 12C. Thus, in the present invention, a distribution of differences of tone levels between the value of a picture element to be inspected and the value of the neighboring picture element is obtained. The prior art, especially, Fujita, fails to disclose obtaining such a distribution, or using such a distribution as does the present invention.

Further, in the present invention the obtained distribution is compared with a model distribution. Namely, the inspection is performed between the two distributions. This is also not disclosed in Fujita, or the remaining prior art.

In Fujita's invention, the numeric value obtained is simply compared with a threshold value. This does not disclose or suggest the above aspects of claims 1, 13 and 14.

In view of the foregoing, Applicant submits that Fujita fails to disclose each and every element of the claimed invention, in particular the claimed etching adjustment layer. Therefore, Fujita fails to anticipate the claimed invention, as required under the provisions of 35 U.S.C. § 102(b). Accordingly, Applicant hereby requests the Examiner reconsider and withdraw the 35 U.S.C. § 102(b) rejection of the above claims.

**Conclusion:**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

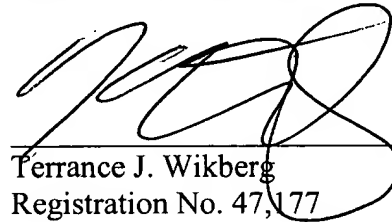
AMENDMENT UNDER 37 C.F.R. §1.116  
Application Number: 09/674,620

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Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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